

§ 807.85

21 CFR Ch. I (4–1–05 Edition)

90 days before he proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a device intended for human use which meets any of the following criteria:

(1) The device is being introduced into commercial distribution for the first time; that is, the device is not of the same type as, or is not substantially equivalent to, (i) a device in commercial distribution before May 28, 1976, or (ii) a device introduced for commercial distribution after May 28, 1976, that has subsequently been reclassified into class I or II.

(2) The device is being introduced into commercial distribution for the first time by a person required to register, whether or not the device meets the criteria in paragraph (a)(1) of this section.

(3) The device is one that the person currently has in commercial distribution or is reintroducing into commercial distribution, but that is about to be significantly changed or modified in design, components, method of manufacture, or intended use. The following constitute significant changes or modifications that require a premarket notification:

(i) A change or modification in the device that could significantly affect the safety or effectiveness of the device, e.g., a significant change or modification in design, material, chemical composition, energy source, or manufacturing process.

(ii) A major change or modification in the intended use of the device.

(b) A premarket notification under this subpart is not required for a device for which a premarket approval application under section 515 of the act, or for which a petition to reclassify under section 513(f)(2) of the act, is pending before the Food and Drug Administration.

(c) In addition to complying with the requirements of this part, owners or operators of device establishments that manufacture radiation-emitting electronic products, as defined in §1000.3 of this chapter, shall comply with the reporting requirements of part 1002 of this chapter.

§ 807.85 Exemption from premarket notification.

(a) A device is exempt from the premarket notification requirements of this subpart if the device intended for introduction into commercial distribution is not generally available in finished form for purchase and is not offered through labeling or advertising by the manufacturer, importer, or distributor thereof for commercial distribution, and the device meets one of the following conditions:

(1) It is intended for use by a patient named in the order of the physician or dentist (or other specially qualified person); or

(2) It is intended solely for use by a physician or dentist (or other specially qualified person) and is not generally available to, or generally used by, other physicians or dentists (or other specially qualified persons).

(b) A distributor who places a device into commercial distribution for the first time under his own name and a repackager who places his own name on a device and does not change any other labeling or otherwise affect the device shall be exempted from the premarket notification requirements of this subpart if:

(1) The device was in commercial distribution before May 28, 1976; or

(2) A premarket notification submission was filed by another person.

§ 807.87 Information required in a premarket notification submission.

Each premarket notification submission shall contain the following information:

(a) The device name, including both the trade or proprietary name and the common or usual name or classification name of the device.

(b) The establishment registration number, if applicable, of the owner or operator submitting the premarket notification submission.

(c) The class in which the device has been put under section 513 of the act and, if known, its appropriate panel; or, if the owner or operator determines that the device has not been classified under such section, a statement of that determination and the basis for the person's determination that the device is not so classified.